

ORDINANCE NO. 2005-6

AN ORDINANCE OF THE CITY OF LAGUNA HILLS,
CALIFORNIA, REPEALING AND REPLACING
CHAPTER 5-32 OF THE LAGUNA HILLS
MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS,
CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Purpose and Findings.

Purpose: The City Council declares that the purposes for the adoption of the amendments to the Municipal Code contained herein are:

1. To amend the regulations regarding Solid Waste handling to remove references to permittees; and,
2. To deter non-franchised Solid Waste haulers and other Persons from depositing their front loader bins and drop-off boxes within the City, and thereby, more effectively control Solid Waste handling services and tracking of the quantity of Solid Waste generated within the City.

Findings: In adopting this Ordinance, the City does hereby find that:

A. Title 5, Chapter 32 of the City of Laguna Hills Municipal Code regulates the storage, removal, transportation, and disposal of Solid Waste.

B. The State of California through its California Waste Management Act of 1989, Ca. Pub. Res. Code Section 40,000 et seq. (AB 939), requires that each local jurisdiction in the state divert 50% of discarded materials from landfills by December 31, 2000.

C. Cities and Counties could face fines up to \$10,000 a day for not meeting the 50% diversion mandate.

D. The City provides for the collection, transportation, and disposal of Solid Waste by exclusive franchise.

E. The City's Code specifically states that it is unlawful for any Person other than the Franchisee to transport or collect Solid Waste in the City or to lease or rent containers or bins for Solid Waste collection to any Person in the City.

F. The City's current Code does not require the impoundment and storage of drop-off boxes or front loader bins of non-franchised Solid Waste hauling companies.

G. Both City staff and the current City waste hauler have noticed illegal front loader bins and drop-off boxes within the City.

SECTION 2. Title 5, Chapter 32 of the Laguna Hills Municipal Code is hereby repealed in its entirety and replaced by the following:

**Chapter 32
SOLID WASTE**

Sections:

- 5-32.010 Declaration of purpose.**
- 5-32.020 Definitions.**
- 5-32.030 Solid Waste removal.**
- 5-32.040 Solid Waste containers and bins.**
- 5-32.050 Franchise required.**
- 5-32.060 Impound of bins.**
- 5-32.070 Location of illegal bins on private property a public nuisance.**
- 5-32.080 Dumping prohibited.**
- 5-32.090 Scavenging prohibited.**
- 5-32.100 Disposal of Recyclables.**
- 5-32.110 Sanitary transportation of Solid Waste.**
- 5-32.120 Franchise.**
- 5-32.130 Days and hours of collection.**
- 5-32.140 Hazardous waste inspection and reporting.**
- 5-32.150 Customer service.**
- 5-32.160 Collection equipment.**
- 5-32.170 Maintenance of containers and bins.**
- 5-32.180 Encroachment permit.**
- 5-32.190 Enforcement.**

5-32.010 Declaration of purpose.

Pursuant to the California Constitution the City is authorized to enact ordinances to protect the public health, safety, and welfare. Pursuant to Public Resources Code Section 40059 aspects of Solid Waste handling of local concern include, but are not limited to, the frequency of collection, means of collection and transportation, level of service, charges and fees, and whether Solid Waste services are to be provided by means of non-exclusive, partially exclusive, or wholly exclusive franchise, and the terms and conditions of such franchise.

The City is obligated by the California Integrated Waste Management Act (Public Resources Code Sections 40,000 et seq.) (hereinafter "AB 939") to implement plans for Solid Waste source reduction, reuse, and recycling so as to meet specified achievement milestones.

The purpose of this chapter is to regulate Solid Waste handling in order to protect the public health, safety and welfare and to meet the City's obligations under AB 939.

5-32.020 Definitions.

As used in this chapter, the following terms shall have the meanings set forth below.

"AB 939" or "Act" means the California Integrated Waste Management Act of 1989, codified in part at PRC Section 40000 et seq., as it may be amended from time to time and as implemented by the regulations of the California Integrated Waste Management Board, or its successor.

"City Property" means property that the City of Laguna Hills owns in fee or over which it has an easement, including but not limited to public streets, public right-of-ways, and public parkways.

"Franchisee" means a Solid Waste enterprise having a Solid Waste franchise agreement with the City, or a Solid Waste enterprise having a County franchise, in an area that is annexed to the City.

"Hazardous waste" means any substance, waste or mixture of wastes defined as "hazardous substance" or "Hazardous Waste" pursuant to Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. Section 9601 et seq., the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. Section 9601 et seq., and all future amendments to either of them, or as defined by the California Integrated Waste Management Board. Where there is a conflict in the definitions employed by two or more agencies having jurisdiction over hazardous or Solid Waste, the term "Hazardous Waste" shall be construed to have the broader, more encompassing definition.

"Insta-bin" means a Temporary Collection Bin, less than three cubic yards in size.

"Person" means any individual, firm, partnership, limited liability company, joint venture, association, social club, fraternal organization, corporation, estate, trust, receiver, syndicate, municipality, district or other political subdivision or any group or combination acting as a unit.

"Recyclable" means a commodity which is sold, or given away, but which is not discarded or deposited into the containers or bins for Solid Waste collection provided by the City's Franchisee. A Recyclable which is discarded or deposited

into such bins or barrels loses its character as a Recyclable and becomes Solid Waste subject to the City's franchise.

"Scavenging" means the unauthorized removal of Solid Waste from containers or bins of the City's Franchisee. Scavenging is prohibited by this Chapter. In addition, the Scavenging of paper, glass, cardboard, plastic, used motor oil, ferrous metal, aluminum, or other Recyclable materials from containers or bins for such materials is prohibited by Public Resources Code Section 41950.

"Solid Waste" means all discarded putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, "green waste," "bulky goods," discarded home and industrial appliances, demolition and construction waste, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes. "Solid Waste" does not include: (a) Hazardous Waste or low-level radioactive waste regulated under Chapter 7.6 (commencing with Section 25800) of Division 20 of the Health and Safety Code; (b) medical waste which is regulated pursuant to the Medical Waste Management Act (Chapter 6.1 (commencing with Section 25015) of Division 20 of the Health and Safety Code); or (c) abandoned vehicles or parts thereof.

"Solid Waste Enterprise" means any individual, joint venture, partnership, unincorporated private organization or private corporation regularly engaged in the business of providing Solid Waste Handling Services.

"Solid Waste Handling Services" includes the storage, collection, transportation, treatment, utilization, processing, recycling and disposal of Solid Wastes.

"Temporary Collection Bin" means a front loader bin or drop-off box for the temporary collection of Solid Waste. Such a bin does not include the Franchisee's containers and bins placed for scheduled, regular collection service or a bin which primarily contains recyclables.

5-32.030 Solid Waste removal.

Solid Waste created, produced or accumulated in or about an apartment house, a dwelling house or other place of human habitation shall be removed from the premises at least once each week.

Solid Waste containing significant amounts of garbage created, produced or accumulated at motels, hotels, restaurants, boardinghouses or other like business establishments shall be removed from the premises at least once every four days. If conditions warrant, the County Health Officer or City Manager may require a greater frequency of removal.

It is unlawful for the Person, having control or possession of the premises described in the preceding paragraphs, to fail or neglect to provide for the

removal of Solid Waste. Each day's violation of this section shall be treated and considered as a separate and distinct offense.

5-32.040 Solid Waste containers and bins.

Except for those Persons described in Section 5-32.050 of this chapter, Solid Waste shall be placed for collection in containers and bins provided by the Franchisee, except when special collections are authorized, i.e., bulky items, holiday trees and then only in accordance with directions provided by the Franchisee.

Residential Solid Waste containers shall be placed adjacent to the street, or curb thereon, not earlier than twenty-four (24) hours before collection is scheduled and removed there from not later than twenty-four (24) hours after collection.

Temporary Collection Bins, such as drop-off boxes and front loaders, shall be placed, maintained, and removed in accordance with the City franchise and shall require an encroachment permit if the bin is to be placed in the public right-of-way, or on City Property. It is unlawful for any Person to place a Temporary Collection Bin in or on the public right-of-way without an encroachment permit and a Solid Waste franchise. It is unlawful for any Person to place a Temporary Collection Bin on private or public property without a City Solid Waste franchise.

5-32.050 Franchise required.

Except as otherwise provided in this section, it is unlawful for any Person other than the Franchisee to transport or collect Solid Waste in the City or to lease or rent containers or bins, including Temporary Collection Bins, for Solid Waste collection to any Person in the City. Persons transporting their own Solid Waste, gardeners or landscapers transporting green waste or refuse generated by their work, or Persons purchasing or accepting donations of Recyclables shall not be required to have a franchise.

5-32.060 Impound of bins.

Any Temporary Collection Bin which is unlawfully deposited on City Property by any Person shall be subject to removal and impound by order of the City Manager or the City Manager's designee. The owner of any Temporary Collection Bin that is removed and impounded pursuant to this section shall be liable to the City for payment of an impound fee, the amount of which shall be fixed by City Council Resolution, in addition to the payment of any other fees or expenses incurred for the storage of the bins or boxes and/or the safe disposal of the contents thereof.

The City Manager, or the City Manager's designee, by written notice may require the removal of any Temporary Collection Bin on City Property. A notice shall be posted upon the Temporary Collection Bin. The notice shall specify the violation and shall require the removal of the front loader bin or drop-off box within twenty-

four (24) hours. Such notice shall be required one (1) time only to any one owner of a front-loader bin or drop-off box. Following such posting, it shall be conclusively presumed thereafter that the owner of the front loader bin or drop-off box has knowledge of the requirements of this Section. If the front loader bin or drop-off box is not removed within twenty-four (24) hours, then the bin or box is subject to impoundment.

Future placement of a Temporary Collection Bin on City Property by a Person that has been previously notified of such violation shall be deemed to be in violation of the provisions of this Section and such notice shall not be required to be posted on said Temporary Collection Bin prior to impoundment by the City.

Written notice (if an address is ascertainable) shall be provided by the City, to the owner of the impounded Bin, of the impound charges and location of the stored bin. A Bin that is unclaimed ninety (90) days after the notice required herein, or after ninety (90) days if the owner cannot be ascertained, shall be donated by the City to the Franchisee.

5-32.070 Location of illegal bins on private property is prohibited and a public nuisance.

Except a Temporary Collection Bin for Recyclables, it is unlawful for any private property owner to permit a Temporary Collection Bin that is not owned by the City Franchisee to be located on the owner's real property.

Any such illegal Temporary Collection Bin is subject to removal pursuant to Title 7, Chapter 7-04 of the Code and the Bin may be impounded pursuant to Section 5-32.060.

5-32.080 Dumping prohibited.

It is unlawful for any Person to place, deposit, or dump Solid Waste, upon any private or public real property in the City, except in containers or bins provided by the City's Franchisee. It is unlawful for any Person to place, deposit or dump Hazardous Waste, medical waste, or abandoned vehicles, or parts thereof, upon any private or public real property in the City.

5-32.090 Scavenging prohibited.

It is unlawful for any Person, other than the Franchisee to remove Solid Waste, including Recyclable Solid Waste, from the Franchisee's Solid Waste containers and bins, including Temporary Collection Bins.

5-32.100 Disposal of Recyclables.

Nothing in this chapter limits the right of any Person to sell, donate or otherwise dispose of Recyclables, except if Recyclables are deposited into the

Franchisee's containers or bins, the Recyclables become Solid Waste and the property of the Franchisee.

5-32.110 Sanitary transportation of Solid Waste.

No Person shall convey or transport Solid Waste upon or along any public street in the City unless such Solid Waste is contained and/or covered or otherwise secured so as to prevent it from leaking, dripping, falling, blowing or scattering from the vehicle in which it is being conveyed or transported. All vehicles and equipment used in the transport of any form of Solid Waste shall be kept clean. No Person shall drain the liquid from any such vehicle upon any road or highway or upon any other land in the City. Persons hauling Solid Waste on the city streets shall completely empty the Solid Wastes from their vehicles and/or containers at the disposal site, or re-cover them if they are not completely emptied, in order to prevent the scattering of residue on the return trip.

5-32.120 Franchise.

The City may provide for the collection, transportation, and disposal of Solid Waste by franchise. If the City awards an exclusive franchise, the terms of the franchise agreement shall govern the rights and obligations of the City and the Franchisee.

In the case of a Solid Waste Enterprise with an exclusive county franchise in an area that is annexed to the City, the City shall assume county's rights and obligations under the county franchise agreement and shall retain its rights under Public Resources Code Section 49520, 49521, 49522, and 49523.

A Solid Waste Enterprise with a county franchise in an area that is annexed to the City shall pay the franchise fee provided under the franchise agreement to the City.

5-32.130 Days and hours of collection.

No Person shall collect Solid Waste before seven a.m. in residential areas, or before six a.m. in commercial areas. Solid Waste shall not be collected after six p.m. No collections shall occur on the following days, unless the City Council or City Manager determines that the public health, safety and welfare, so require: January 1st, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Saturdays and Sundays.

5-32.140 Hazardous waste inspection and reporting.

The Franchisee shall inspect Solid Waste put out for collection in its respective bins and containers, and shall reject for collection Solid Waste observed to be contaminated with Hazardous Waste. The Franchisee shall promptly notify the City and all agencies with jurisdiction, if appropriate, including the California

Department of Toxic Substances Control and local emergency response providers and the National Response Center of reportable quantities of Hazardous Waste, found or observed in Solid Waste anywhere within the City. In addition to other required notifications, if the franchise observes any substances, which it or its employees reasonably believe or suspect to contain Hazardous Waste unlawfully disposed of or released on any City Property, including storm drains, streets or other public rights of way, the Franchisee shall immediately notify the City Manager or his or her designee.

The Franchisee shall maintain records showing the types and quantities, if any, of Hazardous Waste found in Solid Waste and which was inadvertently collected from service recipients within the City, but diverted from land filling.

5-32.150 Customer service.

The Franchisee shall maintain an office accessible by a local phone number, with office hours between the hours of eight a.m. to five p.m. daily, except Sundays and holidays. Each office shall be staffed with a knowledgeable person, trained to respond to customer questions and complaints. An emergency telephone number shall be provided to the City for use outside normal business hours.

The protection of the public health, safety and well-being require that service complaints be acted on promptly and that a record be maintained in order to permit the City and the Franchisee to identify potential public health and safety problems. Accordingly, all service recipients' complaints shall be directed to the Franchisee. During office hours, the Franchisee shall record all complaints, including the date, time, complainant's name and address if the complainant is willing to give this information, and date, and manner of resolution of the complaint. This information shall be maintained for the period of the franchise. The record of service complaints shall be made available for review by representatives of the City during the Franchisee's office hours.

5-32.160 Collection equipment.

Vehicles operated by the Franchisee shall be maintained in good operating condition and free of graffiti. Vehicles using compaction mechanisms during the stationary compaction process shall not exceed a single-event noise level of seventy-five (75) decibels (dB)A at a distance of twenty-five (25) feet from the collection vehicle measured at an elevation of five feet above ground level. The Franchisee shall submit to City, upon City's request, a certificate of vehicle noise level testing by an independent testing entity of a representative sample of all vehicles.

The Franchisee shall comply with all regulations promulgated by all agencies with jurisdiction over the safe, sanitary operation of all of their equipment. The Franchisee shall not damage private streets over which their respective collection equipment may be operated and shall obtain all required approvals for operation of its respective collection vehicles on private streets.

5-32.170 Maintenance of containers and bins.

The containers and bins provided by the Franchisee, including Temporary Collection Bins and Insta-bins, shall be kept in a clean, painted, and serviceable condition. Graffiti shall be promptly removed, but no later than twenty-four (24) hours after notice by a service recipient or City. Bins shall be steam-cleaned or replaced at least once a year. The City Manager or his/her designee has the authority to require the Franchisee to replace promptly any container or bin, which in the City Manager's or his/her designee's reasonable discretion is not in a clean, painted, or serviceable condition.

5-32.180 Encroachment permit.

An encroachment permit is required to place a Temporary Collection Bin in the public right-of-way or upon any City Property. An encroachment permit is also required for an Insta-bin if it will be, or is located in the public right-of-way for more than seven days. Only the Franchisee authorized by the franchise to provide temporary collection service may obtain an encroachment permit for a Temporary Collection Bin or for an Insta-bin. Applications for such permit shall be on forms supplied by the City and shall contain the following information:

- A. Name, address, and business telephone;
- B. Evidence of Solid Waste franchise;
- C. Name, address and telephone number of Person or Persons who will have the responsibility for the placement, servicing and removal of the Temporary Collection Bin(s), or Insta-bin(s), as described above.

Applications shall be accompanied by a permit fee, determined in accordance with a resolution of the City Council.

Encroachment permits may be issued by the City Engineer for a maximum of thirty (30) days, and are revocable at any time by the City Engineer, if the permittee violates City ordinances or state law, any term of the permit, or if the permittee's bins are deemed to constitute a traffic hazard or public nuisance. A permittee shall promptly remove its bin(s) if the permit is revoked. All decisions of the City Engineer regarding the issuance and revocation of encroachment permits are final and are not appealable.

Encroachment permits are not transferable by assignment, sale, or other means without the express written permission of the City Engineer.

5-32.190 Enforcement.

Any Person violating any provision of this chapter is guilty of a misdemeanor.

SECTION 3. Any provision of the Laguna Hills Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such

inconsistencies and no further, is hereby repealed or modified to that extent necessary to affect the provisions of this Ordinance.

SECTION 4. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more section, subsection, subdivision, sentence, clause, phrase, or portion thereof be declared invalid or unconstitutional.

SECTION 5. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be posted at the duly designated posting places within the City and published once within fifteen (15) days after passage and adoption as may be required by law; or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the Office of the City Clerk five (5) days prior to the date of adoption of this Ordinance; and, within fifteen (15) days after adoption, the City Clerk shall cause to be published, the aforementioned summary and shall post a certified copy of this Ordinance, together with the vote for and against the same, in the Office of the City Clerk.

PASSED, APPROVED, AND ADOPTED this 10th day of May 2005.



RANDAL BRESSETTE, MAYOR

ATTEST:



MARY A. CARLSON, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF LAGUNA HILLS)

I, Mary A. Carlson, City Clerk of the City of Laguna Hills, California, DO HEREBY CERTIFY that the foregoing Ordinance No. 2005-6 was duly introduced and placed upon its first reading at a Regular Meeting of the City Council on the 26th day of April 2005, and that thereafter, said Ordinance was duly adopted and passed at a Regular Meeting of the City Council held on the 10th day of May 2005, by the following vote, to wit:

AYES: Council Members Carruth, Lautenschleger, Songstad,
Mayor Pro Tempore Scott, and Mayor Bressette

NOES: None

ABSENT: None

ABSTAIN: None

(SEAL)



MARY A. CARLSON, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF LAGUNA HILLS)

AFFIDAVIT OF POSTING
AND PUBLICATION

MARY A. CARLSON, being first duly sworn, deposes and says:

That she is the duly appointed and qualified City Clerk of the City of Laguna Hills;

That in compliance with State Laws of the State of California, ORDINANCE NO. 2005-6, being:

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on the 29th day of April 2005 was published in summary in the Register Newspaper and on the 6th day of May 2005, was published in summary in the Saddleback Valley News; and was, in compliance with City Resolution No. 2004-05-25-2, on the 29th day of April 2005 and the 13th day of May 2005, caused to be posted in summary in three places in the City of Laguna Hills, to wit:

Laguna Hills City Hall
Laguna Hills Community Center
La Paz Center



MARY A. CARLSON, CITY CLERK
Laguna Hills, California